

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRIS PURTILL,

Petitioner,

v.

PATRICK COVELLO,

Respondent.

No. 2:22-cv-0199 KJM DB P

ORDER

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 3, 2022, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within thirty days. Neither party filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court

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1 . . .”). Having reviewed the file, the court finds the findings and recommendations to be
2 supported by the record and by the proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed November 3, 2022 are adopted in full;

5 2. Respondent’s motion to dismiss (ECF No. 11) is granted on the grounds that the
6 petition is untimely;

7 3. Petitioner’s motion to stay (ECF No. 16) and request for DNA testing (ECF No. 18)
8 are denied as moot;

9 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
10 § 2253; and

11 5. This case is closed.

12 DATED: February 21, 2023.

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15 CHIEF UNITED STATES DISTRICT JUDGE
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